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IN CLERKS OFFICE
US DISTRICT COURT E.D.N.Y.
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BROOKLYN OFFICE

Rec'd 11/21/16

November 18, 2016

U.S. District Judge Eric Vitaliano
Eastern District of New York
Cadman Plaza East
Brooklyn, NY

Dear Judge Vitaliano,

I am a member of the public and a reporter for Newsday covering the case of U.S. v Doe, 13 CR 00028, scheduled for sentencing before you on Nov. 22. I am writing to oppose any petition to close the courtroom for the sentencing, and to request that you unseal all filings in the case.

As you know, there is a presumptive right of press and public access to all court proceedings and judicial documents under both our Constitution and the common law. This presumption can only be overcome if a judge makes findings that a compelling governmental interest in secrecy overrides the presumption, and narrowly tailors any restriction on access.

This case involves the proposed secret sentencing of an unnamed individual on unspecified terrorism-related charges that have been secretly pending in this court since at least January 2013. The public has a deep interest in the handling of terrorism cases, and in a transparent public justice system.

As always, it is difficult to intelligibly argue about secret matters. However, I would like to make the following points for you to weigh:

1. No findings have ever been entered on the docket reflecting any basis for sealing, and without them sealing is inappropriate.
2. The function of both the press and a public docket is to let the public know the name of criminals, so the public can protect itself in and against encounters. If his name is kept secret, people's ignorance makes them vulnerable.
3. Even if you find there is a compelling interest in keeping the name of the defendant secret, narrow tailoring requires that you consider sentencing him in open court without publicly revealing the name. If the name is secret, all obvious risks to the individual or to any investigation would be eliminated. The alternative, keeping the public completely in the dark about the crimes and the sentence, would unnecessarily eliminate all accountability of the courts and the executive branch in what is supposed to be a public justice system.
4. If the defendant is a cooperating witness, typically cooperators are not sentenced until any investigation requiring their cooperation is complete. Under those circumstances, it is difficult to see what law enforcement interest would be put at risk by an anonymous but public sentencing.
5. The alternative appears to be a completely dark, black system in which an individual is arrested, charged, and sentenced and the court and prosecutor agree to forever to keep

it secret. The complete absence of transparency and public accountability creates a potential for abuse.

Thank you for your attention.

John Riley
Newsday
516-458-2393

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Newsday

Judge Eric Vitaliano
EDNY